

SENATE BILL 112

M4

2lr0007

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: January 18, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2012

CHAPTER _____

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation – Appraisal**
3 **Requirement**

4 FOR the purpose of altering the number of appraisals required for the termination of
5 an easement approved by the Maryland Agricultural Land Preservation
6 Foundation; requiring that land subject to the termination of an easement shall
7 be appraised as of a certain date; requiring the Department of General Services
8 to review the appraisals, make a certain determination, issue a certain
9 statement to the Foundation, and issue a certain notification to the landowner;
10 and generally relating to the requirements for the termination of an easement
11 under the Maryland Agricultural Land Preservation Foundation.

12 BY repealing and reenacting, with amendments,
13 Article – Agriculture
14 Section 2–514
15 Annotated Code of Maryland
16 (2007 Replacement Volume and 2011 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Agriculture**

20 2–514.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) It is the intent of the General Assembly that any easement whose
2 purchase is approved by the Board of Public Works on or before September 30, 2004,
3 be held by the Foundation for as long as profitable farming is feasible on the land
4 under easement, and an easement may be terminated only in the manner and at the
5 time specified in this section.

6 (b) Except as provided in subsection (h) of this section, any time after 25
7 years from the date of purchase of an easement, the landowner may request that the
8 easement be reviewed for possible termination of the easement.

9 (c) (1) Upon a request for review of an easement for termination, an
10 inquiry shall be conducted by the Foundation to determine the feasibility of profitable
11 farming on the subject land.

12 (2) The inquiry shall include:

13 (i) On-site inspection of the subject land; and

14 (ii) A public hearing conducted by the Foundation board within
15 the county containing the subject land after adequate public notice.

16 (3) The inquiry shall be concluded and a decision reached by the
17 Foundation within 180 days after the request for termination, unless the landowner
18 requests a hearing under subsection (h) of this section.

19 (d) An easement may be terminated only with the approval of the governing
20 body of the county containing the subject land. In deciding whether to approve the
21 request for termination, the county governing body shall receive the recommendation
22 of the county agricultural preservation advisory board established under § 2-504.1 of
23 this subtitle. The decision of the county governing body shall be made after the public
24 hearing required in subsection (c) of this section. The county governing body shall
25 notify the Foundation of its decision within 90 days after the conclusion of the public
26 hearing required in subsection (c) of this section.

27 (e) Upon the affirmative vote of a majority of the Foundation members
28 at-large, and upon the approval of the Secretary and the State Treasurer, the request
29 for termination shall be approved, and the landowner shall be notified.

30 (f) (1) If the request for termination is approved, [an appraisal] **TWO**
31 **FAIR MARKET VALUE APPRAISALS** of the subject land shall be ordered by the
32 **DEPARTMENT OF GENERAL SERVICES AT THE DIRECTION OF THE** Foundation at
33 the expense of the landowner requesting termination of the easement.

34 **(2) THE SUBJECT LAND SHALL BE APPRAISED AS OF THE DATE OF**
35 **THE APPROVAL OF THE REQUEST FOR TERMINATION.**

1 **(3) THE DEPARTMENT OF GENERAL SERVICES SHALL REVIEW**
2 **THE TWO APPRAISALS AND SHALL DETERMINE THE FAIR MARKET VALUE OF THE**
3 **SUBJECT LAND AND SHALL ISSUE A WRITTEN STATEMENT AS TO THE APPROVED**
4 **FAIR MARKET VALUE TO THE FOUNDATION.**

5 **(4) UPON RECEIPT OF THE WRITTEN STATEMENT FROM THE**
6 **DEPARTMENT OF GENERAL SERVICES, THE FOUNDATION SHALL ISSUE A**
7 **NOTIFICATION TO THE LANDOWNER OF THE APPROVED FAIR MARKET VALUE.**

8 **[(2)] (5) (i) 1.** No more than 180 days following the
9 **[appraisal] NOTIFICATION** required under paragraph **[(1)] (4)** of this subsection, the
10 landowner may repurchase the easement by paying to the Foundation the difference
11 between the **APPROVED** fair market value and the agricultural value of the subject
12 land[, as determined by the appraisal].

13 **2. FOR PURPOSES OF THIS PARAGRAPH, THE FAIR**
14 **MARKET VALUE IS THE SAME AS SET FORTH UNDER § 2-511(B) OF THIS**
15 **SUBTITLE.**

16 (ii) For purposes of this paragraph, the agricultural value of the
17 land is determined by the appraisal method that was in effect at the time the
18 easement was acquired by the Foundation, either by the agricultural appraisal
19 formula under § 2-511(d) of this subtitle or by an appraisal that determines the price
20 as of the valuation date which a vendor, willing but not obligated to sell, would accept,
21 and which a purchaser, willing but not obligated to buy, would pay for a farm unit
22 with land comparable in quality and composition to the property being appraised.

23 (iii) 1. In the case of the termination of an easement that
24 was originally purchased under a matching allotted purchase, the Foundation shall
25 distribute to the contributing county a portion of the repurchase payment received
26 under subparagraph (i) of this paragraph that is equal to the percentage of the original
27 easement purchase price contributed by the county.

28 2. A. From the funds distributed to a county under
29 this subparagraph, the county shall deposit in the county's special account for its
30 agricultural land preservation program an amount that is at least equal to the
31 percentage of the original easement purchase price that was paid out of the special
32 account.

33 B. If any of the funds deposited in the county's special
34 account have not been expended or committed within 3 years from the date of deposit
35 into the special account, the county collector shall remit those funds to the
36 Comptroller for deposit in the Maryland Agricultural Land Preservation Fund as
37 provided in § 13-306(d) of the Tax – Property Article.

1 3. The county shall deposit the balance of the funds
2 distributed to it under this subparagraph in the county's general fund.

3 4. If an easement is terminated, the Foundation shall
4 deposit its portion of the repurchase payment in the Maryland Agricultural Land
5 Preservation Fund as provided under § 2-505 of this subtitle.

6 (g) If the request for termination is denied, or if the landowner fails to
7 repurchase the easement within 180 days of the [appraisal] **NOTIFICATION**
8 **REQUIRED UNDER SUBSECTION (F)(4) OF THIS SECTION**, the landowner may not
9 again request termination of the easement until five years after his last request for
10 termination.

11 (h) A landowner may not terminate an easement purchased using an
12 installment purchase agreement, as provided in § 2-510(k) of this subtitle.

13 (i) (1) This subsection applies only to easements that the Foundation
14 acquires on or before September 30, 2004.

15 (2) Before deciding on a request for termination of an easement, the
16 Foundation shall provide a landowner with the opportunity for a hearing.

17 (3) Notwithstanding §§ 2-401 through 2-405 of this title, the
18 landowner may appeal any Foundation denial directly to the circuit court of the county
19 where the land is located.

20 (4) The circuit court shall hear and determine the appeal on the record
21 made in accordance with § 10-222 of the State Government Article.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.